

Applicant : Detlef Weber
Serial No. : 09/898,909
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Page : 5 of 5

Attorney's Docket No.: 12816-021001 / S1166 SB/flu

REMARKS

The examiner has rejected claims 21-27 under 35 U.S.C 103(a) as being unpatentable over applicant's admitted prior art in view of *Jeng* et al (U.S. 5,744,865).

The applicant submits that the "admitted prior art" is not prior art under 103(c), which states:

"(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The applicant traverses the rejection and submits a rule 1.132 declaration stating the common ownership of the invention.

The examiner has also maintained a rejection under 35 U.S.C 103(a) based on the combination of *Jeng* and *Sethi* et al (U.S. 5,573,973) and has indicated that the previously filed remarks were considered moot in view of the new rejection over applicant's admitted prior art in view of *Jeng*. In response to this rejection, the applicant refers to the reply filed September 9, 2003.

Applicant asks that all claims be allowed. Enclosed is a check for a one month petition for extension of time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 4/5/04



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